knowledge and acquiescence of the person whose right is invaded, and the nuisance must be continued in substantially the same way and with equally injurious results for the entire prescriptive period." 29 Cyc. 1206 and cases cited. In the case in hand it appears that this was the first year that the plaintiff had suffered such damage, and it seems therefore that the defendant could have acquired no prescriptive right, because it was only at this time that the rats became a nuisance to the plaintiff. The burden of proof was on the defendants to prove their prescriptive right, and they had not done so. *Stamm et al.* v *City of Albuquerque,* 62 Pac. 973; *Ball* v. *Ray,* L. R. 8 Ch. 467. In the absence of such prescriptive right in the defendants equity would most likely give the plaintiff equitable relief, as in *Bellamy* v. *Wells* (1890), 63 L. T. R. 635; *Rex* v. *Moore* (1832), 3 B. and Ad. 184; *Walker* v. *Brewster* (1887), L. R. 5 Eq. 25; *Bland* v. *Yates* (1914), 58 Sol. J. 612; *Richards* v. *Daugherty,* 133 Ala. 569.

Unfair Competition — Federal Trade Commission — Constitutional Law.—A restraining order was issued by the Federal Trade Commission restraining the petitioner, a mail-order house doing an interstate business, from certain unfair practices in connection with the sale of sugar and other staple commodities and restraining the sale of such articles below cost. In a petition to review the order, petitioner contends that the order was improvidently issued because the petitioner had discontinued such methods, and that the act creating the Commission was unconstitutional. *Held,* the order was warranted, but that it should be modified so as not to prohibit sales below cost. *Sears, Roebuck and Co.* v. *Federal Trade Commission* (C. C. A., 7th Circ., 1919), 258 Fed. 307.

No inflexible rule can be laid down as to what conduct will amount to unfair competition. *Ludlow Valve Mfg Co.* v. *Pittsburg Mfg. Co.,* 166 Fed. 26, 92 C. C. A. 60. Unfair competition is always a question of fact. *Higgins C.* v. *Higgins Soap Co.,* 144 N. Y. 462; *Howe Scale Co.* v. *Wychoff, Seamans and Benedict,* 198 U. S. 118. The court in the principal case said that petitioner's conduct in representing that it had obtained special price concessions and could sell much cheaper than their competitors and that it purchased selected brands from abroad, when in fact it had not so done, were means of wrongfully imputing improper conduct to its competitors and consequently was unfair competition. In view of the advertisements published by petitioner such construction seems justifiable. The fact that petitioner had discontinued such practice will have no influence unless the circumstances are clear that the petitioner will not resume such practices. *Goshen Mfg. Co.* v. *Myers Mfg. Co.,* 242 U. S. 202, 37 Sup. Ct. 105, 61 L. Ed. 248. The Commission, it is true, has administrative and quasi-judicial functions. Orders of the Commission are mandatory and have the force of judgments until reversed. The combinations of power so dissimilar, and each so far-reaching creates a department which is unique in federal legislation. However grants of similar authority to administrative officers and bodies have not, as the court points out, been found repugnant to the constitution. *Buttfield* v. *Stranahan,* 192 U. S. 470, 24 Sup. C. 349, 48 L. Ed. 525; *Union Bridge Co.* v. *United*

States, 204 U. S. 364, 27 Sup. Ct. 367, 51 L. Ed. 523; *National Pole Co.* v. *Chicago and N. W. Ry. Co.,* 211 Fed. 65, 127 C. C. A. 561. See also *Field* v. *Clark,* 143 U. S. 649. The court in modifying the order of the Commission gave little discussion to the matter. However an important question is presented. The right of a person to engage in a lawful business can not be placed under the arbitrary and uncontrolled will of an individual or board. *Cicero Lumber Co.* v. *Town of Cicero,* 176 Ill. 9, 42 L. R. A. 693. There is no obligation upon a person to sell his commodities to the public equally and no common law precedent for such can be found. *Great Atlantic and Pacific Tea Co.* v. *Cream of Wheat Co.* (1915), 227 Fed. 46; *Greater New York Film Co.* v. *Biograph Co.,* 203 Fed. 39, 121 C. C. A. 375. See also 14 MICH. L. REV. 228. In 29 HARVARD L. REV. 77, it is suggested that the common law principle that intentional damage without justification is actionable might sustain such an obligation. This however seems untenable and might lead to a return of the unsatisfactory system of government price fixing. 25 Yale L. JOUR. 194. The reason for a denial of the right of the courts to enforce such obligations seems to rest upon the constitutional guarantee in Article XIV which protects all citizens of the United States against deprivation of property, "without due process of law."

WORKMEN'S COMPENSATION—ACCIDENT: WHAT IS ACCIDENTAL INJURY?—A traveling salesman on a business trip missed the bus which was to carry him to the train, his delay being due to his stopping to talk to a customer. He started to walk to the station, carrying two sample cases and a suitcase. He became excited through fear of losing the train, ran to the station and as a result of the exertion ruptured a blood vessel in his brain, causing paralysis. *Held,* he had suffered an accident within the Workmen's Compensation Act. *Crosby* v. *Thorp-Hawley Co., et al.* (Mich., 1919), 172 N. W. 535.

This decision is clearly within the rule established by decisions of the British courts, notably in the opinion of Lord Macnaughton in *Fenton* v. *Thorley* (1903), A. C. 443, 19 Times L. R. 684, holding such cases "accidental" on the broad ground of public policy. In fact the English cases have, in general, gone far beyond the previously accepted idea that accident and disease are mutually exclusive terms. In a recent case, *Coyle* v. *Watson* (1915), A. C. 1, the House of Lords held that a miner imprisoned in a shaft where he caught cold, took a chill, and developed pneumonia, had suffered an "accident" within the "usual and ordinary meaning of the term." Although Michigan decisions have not expressly adopted this doctrine and have not expressly overruled the case of *Feder* v. *Iowa State Traveling Men's Assoc.,* 107 Iowa 538, in which the court held that a man bursting a blood-vessel on reaching to close a window, did not suffer an "accident" within the terms of a general policy; yet some doubt is cast on the authority of this case. In a strong opinion in *Sullivan* v. *Modern Brotherhood,* 167 Mich. 524, 42 L. R. A. (N. S.) 140, Justice Stone held that infection of an eye by gonococci due to splashing of water while washing clothes is an accidental injury to the eye within the terms of the policy. The apparent tendency of recent decisions is to broaden the meaning of the term "accident." See L. R. A. 1916 A 29, 267, 1917 D 103, 1918 F 867.